IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 30458 of 2007(S)

OA.563/2007 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH.
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PETITIONER:

RAJEEV NARAYANAN, AGED 29 YEARS,
S/O P.NARAYANAN KUTTY(LATE),
(ELKH/PSI/SSR 110/25 KV TRD/SUB STATION),
GANESHGIRI P.O., SHORNUR, SOUTHERN RAILWAY,
RESIDING AT PUTHUMANAMPARAMPATH HOUSE,
PERUMUDIYUR P.O., PATTAMBI(VIA),PALAGHAT DIST.

BY ADV. SRI.B.HARISH KUMAR,
ADV. SRI.SADCHITH P.KURUP.

RESPONDENTS:
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1. **UNION OF INDIA, REPRESENTED BY**
   THE GENERAL MANAGER, SOUTHERN RAILWAY,
   CHENNAI.

2. **THE CHIEF PERSONAL OFFICER,**
   DIVISIONAL OFFICE,
   SOUTHERN RAILWAY, CHENNAI.

3. **THE SENIOR DIVISIONAL OFFICER,**
   SOUTHERN RAILWAY, DIVISIONAL OFFICER,
   PERSONAL BRANCH, PALAGHAT.

BY ADV. SRI. P. PARAMESWARAN NAIR, ASST. S.G.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

prv.

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.30458 of 2007-S

Judgment

Balakrishnan Nair, J.

The petitioner was appointed in the Railways on compassionate grounds as Khalasi on 09.12.1998, which is a Group D post. His father was an employee of the Railway Protection Force who sought voluntary retirement on medical grounds. That was the reason why the petitioner's claim for appointment under the compassionate appointment scheme was considered. He was eligible to be appointed in some Group C post. He had cleared the trade test also for the same. But, since there was no vacancy in the Group C cadre, he was offered appointment as per Annnexure A5 dated 17.11.1998 in the Group D cadre. There was a stipulation in the said order that as and when vacancy arises, he will be considered for the post of Skilled Artisan, which is a Group C post. The petitioner accepted that offer and he was appointed as Khalasi on 09.12.1998. Later, the Railways offered to appoint him as Skilled Artisan by communication dated 17.10.2001. But, owing to domestic problems, the petitioner could not accept that offer. Later, when those problems were

over, he submitted Annexure A8 representation, claiming that he may be considered for appointment as Ticket Collector in the Commercial Department. Since the said application was not considered, he filed Annexures A9 to A11 representations and thereafter, approached the CAT by filing OA No.563/07. The CAT was not impressed by the contentions of the petitioner and it dismissed the application in limine by Ext.P2 order. According to the Tribunal, since the petitioner has already accepted the post of Khalasi, he cannot have any further claim for appointment in Group C post.

2. We heard the learned counsel for the petitioner also. We notice that the reasoning of the CAT may not be correct as there was a condition in the letter of offer of appointment as Khalasi that his claim for appointment in Group C post will be considered later. We find that the petitioner was offered appointment as Skilled Artisan in the Group C cadre on 17.10.2001. He did not accept that. He may have his own reasons for not accepting the said post. Now, he would like to get another convenient post of his choice. The said claim was not considered by the Railways. We find nothing illegal with the stand of the Railways. Therefore, the rejection of the claim of the petitioner by the CAT

is liable to be affirmed though for a different reason. In the result, the Writ Petition fails and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

15.10.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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